



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

27 MAR 2015

REPLY TO THE ATTENTION OF:

WC-15J

CERTIFIED MAIL 7014 2870 0001 9580 7696
RETURN RECEIPT REQUESTED

The Honorable Larry Mulligan Jr.
Mayor City of Middletown
One Donham Plaza
Middletown, Ohio 45042

Subject: Requests for Information Pursuant to Section 308 of the
Clean Water Act (33 U.S.C. § 1318) Docket No.: V-W-15-308-18

Dear Mayor Mulligan:

Under the authority provided by Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318(a), the U.S. Environmental Protection Agency is requiring that the City of Middletown perform the combined sewer overflow and receiving stream sampling described in the enclosed documents, beginning May 1, 2015. Please note that the obligation to perform the sampling will continue until October 30, 2015, unless EPA informs Middletown that the sampling can cease at an earlier date.

Please exercise care to assure that responses are complete and accurate, because Section 309(c)(2) of the Act, 33 U.S.C. § 1319(c)(2), provides for the imposition of criminal penalties where false information is knowingly provided to EPA.

Thank you for your cooperation in this matter. If you have any questions concerning this matter, please contact Jonathan Moody of my staff at (440) 250-1708. Please send your written responses to the address specified in the enclosed documents.

Sincerely,

A handwritten signature in black ink, appearing to read "DM", written over a horizontal line.

Dean Maraldo
Chief, Water Enforcement &
Compliance Assurance Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	REQUEST PURSUANT TO SECTION
)	308(a) OF THE CLEAN WATER ACT
THE CITY OF MIDDLETOWN, OHIO)	33 U.S.C. SECTION 1318 (a)
NPDES No. OH0026522)	
)	DOCKET NO. V-W-15-308-18

Pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency by Section 308 (a) of the Clean Water Act (CWA), 33 U.S.C. § 1318 (a), EPA is requiring that the City of Middletown sample its discharges relating to combined sewer overflows (CSOs) and in-stream monitoring points, prepare reports and provide information in accordance with this request. EPA is requiring Middletown to perform this sampling for the purpose of determining whether Middletown is in violation of the General Effluent Limitations in Part III.2 of Middletown's NPDES permit. The Administrator has delegated this authority to the Regional Administrator of EPA, Region 5, who has re-delegated this authority to the Director of the Water Division, EPA Region 5. On January 29, 2015, the Director of the Water Division, EPA Region 5, re-delegated this authority to the Chief of the Water Enforcement and Compliance Assurance Branch, EPA Region 5.

Access to records and information described herein must be provided notwithstanding the possibility that the records contain information that may be characterized as confidential information or trade secrets. Should you so request, however, any information (other than public information) which the Administrator determines to constitute methods, processes, or other business information entitled to protection as trade secrets will be maintained as confidential or trade secret. Request for confidential treatment must be made when information or access to records is provided, since any information not so identified will not be accorded this protection by the Agency.

EPA has the authority to use the information generated in response to this request in an administrative, civil or criminal action. There are significant civil and criminal penalties pursuant to Section 309 of the CWA, 33 U.S.C. § 1319 for violations of Section 308.

This request is being sent to Middletown via certified mail. It shall become effective seven calendar days after the date Middletown receives the request, as shown on the certified mail receipt (effective date). We encourage Middletown to contact Jonathan Moody of my staff at (440) 250-1708, or Gary Prichard in the Office of Regional Counsel at (312) 886-0570, if you have any questions about this request.

I. INSTRUCTIONS AND DEFINITIONS

The term “combined sewer overflow” or “CSO” refers to discharges (as defined by Section 502(12) of the Clean Water Act) from any of the “overflow” locations identified in Part II E. of Middletown’s NPDES Permit for its CSOs.

The term “combined sewer overflow outfall” or “CSO outfall” refers to the specific point source at a particular location from which a CSO occurs.

The term “Middletown” shall mean the City of Middletown and any agents, employees or contractors or other entities that performed work or acted in any way on behalf of or at the direction of the City of Middletown.

The term “NPDES Permit” refers to the National Pollutant Discharge Elimination System Permit No. OH0026522, issued by the Ohio EPA to the City of Middletown with an effective date August 1, 2009 and an expiration on January 31, 2014. At the time of the effective date of this Information Request, the NPDES Permit was administratively extended.

II. REQUESTS

CSO Sampling and Reporting Requirements for the City of Middletown:

General Matters

1. Among other things, this Information Request requires that the City of Middletown sample its CSOs at its CSO discharge points to the Great Miami River and the Hydraulic Canal during overflow events. An “overflow event” is defined as a day in which the specific CSO discharge point overflows continuously for thirty minutes or more. Consecutive days of discharge are considered a single event if the overflow is continuous.
2. All grab samples taken pursuant to this Request shall be handled and analyzed in accordance with 40 C.F.R. Part 136. The following parameters will be analyzed for all samples taken pursuant to the sampling required in Paragraphs 3 and 4:
 - (a) *Escherichia coli* (*E. coli*)
 - (b) Total Kjeldahl Nitrogen
 - (c) Nitrate-Nitrite
 - (d) Total Organic Carbon
 - (e) Ortho-phosphate
 - (f) Phosphorus, Total
 - (g) BOD, 5 day
 - (h) Total Suspended Solids

CSO Samples

3. Beginning on May 1, 2015, and continuing until October 31, 2015, Middletown shall collect grab samples of CSOs from each of the CSO outfalls identified in Part II, D. of Middletown's NPDES Permit, in the following manner:
 - a) Frequency of Sampling: Middletown shall conduct sampling at each CSO outfall every time that the specific CSO discharges for 30 minutes or more.
 - b) Number of Samples Obtained: At each CSO outfall sampled, Middletown shall obtain at least one grab sample of the effluent discharged during the first 30 minutes of the CSO discharge. If Middletown obtains a sample of a specific CSO discharge that does not last for 30 minutes or more, Middletown shall analyze such sample in accordance with Paragraph 3.d.
 - c) Location of Sampling: The CSOs shall be sampled at the CSO outfall locations or a manhole on the CSO piping system, such that the samples taken are representative of discharges from the CSO outfall into the waterbody.
 - d) Parameters Analyzed: Middletown shall analyze all CSO samples that it obtains, whether or not the discharge being sampled lasts for 30 minutes or more, for the parameters listed in Paragraph 2 of this Information Request.

In-Stream Samples

4. Concurrent with the CSO sampling described above, Middletown shall carry out In-Stream Monitoring at five additional sampling locations in the following manner:
 - a) SR 122 Bridge: Middletown shall collect one sample at the bridge upstream of the CSOs on SR 122 within one hour after the time that any specific CSO outfall is being sampled.
 - b) SR 73 Bridge: Middletown shall collect one sample at the bridge downstream of the CSOs on SR 73 at a time when effluent discharged from any specific CSO outfall being sampled would be expected to have reached the downstream sample location.
 - c) Boat Sampling: Middletown shall collect one sample at a center point in the Great Miami River that is downstream of all CSO discharges and upstream of Elk Creek. Middletown shall collect the sample at a time when effluent discharged from any specific CSO outfall being sampled would be expected to have reached the downstream sample location. Boat sampling at this location shall only be required for overflow events when a specific CSO discharge begins between 0300 and 1500 hours.
 - d) Long Run Creek: Middletown shall collect one sample from the Long Run Creek location described in the City of Middletown Wet Weather Sampling Plan dated June 25, 2014, within one hour after the time that any specific CSO outfall is being sampled.

- e) Elk Creek: Middletown shall collect one sample from the Elk Creek location described in the City of Middletown Wet Weather Sampling Plan dated June 25, 2014, within one hour after the time that any specific CSO outfall is being sampled.
- f) Hydraulic Canal: Middletown shall collect one sample from the Hydraulic Canal location described in the City of Middletown Wet Weather Sampling Plan dated June 25, 2014, within one hour after the time that any of the following CSO outfalls are being sampled: 2nd Avenue outfall, Lakeside Relief outfall, and Lakeside/Bulls Run outfall.

Additional Sampling

5. In addition to the CSO and In-Stream Monitoring required in paragraphs 3 and 4, Middletown shall carry out additional sampling for *E. coli* analysis in the following manner:
 - a) Frequency of Sampling: Middletown shall conduct additional sampling at each location described in this paragraph at least one time each calendar month during a rainfall event of 0.75 inches or greater in a 24 hour period that results in discharges from three or more CSO outfalls. If Middletown performs additional sampling pursuant to this paragraph at a time when (a) precipitation is forecasted, based on information from the National Weather Service's Hourly Weather Forecast Graphs for Middletown Ohio, to be 0.75 inches or greater in a 24 hour period; (b) the rainfall event's actual precipitation is more than 0.5 inches but less than 0.75 inches; and (c) the rain event results in discharges from three or more CSO outfalls, then Middletown shall not be required to conduct additional sampling pursuant to this paragraph until the following calendar month.
 - b) Number of Samples Obtained: At each location where sampling is required by this paragraph, Middletown shall collect one sample each hour for the first 6 hours after any specific CSO discharge begins, one sample 9 hours after any specific CSO discharge begins, and one sample 12 hours after any specific CSO discharge begins.
 - c) Location of Sampling: Middletown shall conduct the additional sampling pursuant to this paragraph at the upstream location described in Paragraph 4(a) and at the downstream location described in Paragraph 4(b).
 - d) Parameters Analyzed: The samples, at a minimum, shall be analyzed for *E. coli*.

Methodology and Reports

6. Middletown shall prepare and provide to EPA a written report of the results of all sampling and analysis required under this request within 30 days after the date that the sampling occurred. The reports shall specify each outfall that was sampled and the locations within the receiving stream where each sample was collected, the date of each sample and the most probable number of *E. coli* per 100 milliliters determined to be present in each sample. The report shall also include a summary of:
 - a) the date and time of the beginning and end of the discharge for each CSO;

- b) an estimate of the total volume discharged from each CSO for every overflow event during the monitoring period described in Paragraph 3;
 - c) the location of the rainfall gauge and the total rainfall for each overflow event as measured by that rainfall gauge;
 - d) for downstream samples, an explanation of Middletown's basis for believing that the samples were taken at a time when effluent discharged from any specific CSO outfall being sampled would be expected to have reached the downstream sample location, including data from USGS Gauge 03272100 for the Great Miami River at Middletown, OH; and
 - e) copies of the chain of custody forms and the laboratory analysis records for each sampling event with the monthly written reports.
7. Middletown shall submit the reports described in Paragraph 6 until November 30, 2015.

III. NOTIFICATION OF INTENT TO COMPLY

8. Within three calendar days of the effective date of this request, please notify EPA, in writing, as to whether Middletown intends to comply with this request. If Middletown does not intend to comply with any aspect of this request, please explain in writing the specific aspect of this request that Middletown does not intend to comply with and the reason Middletown does not intend to comply.

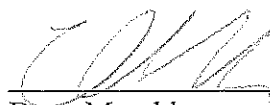
IV. REPORTS AND CERTIFICATION

9. Middletown shall submit the reports required by this Information Request to EPA at the address set forth below:

U. S. Environmental Protection Agency – Region 5
Water Enforcement & Compliance Assurance Branch (WC-15J)
77 W. Jackson Blvd.
Chicago, Illinois 60604
ATTN: Jonathan Moody
Facsimile Number (312) 697-2091

This information request is not subject to the Paperwork Reduction Act.

Please contact Jonathan Moody of my staff at (440) 250-1708, or Gary Prichard in the Office of Regional Counsel at (312) 886-0570, if you have any question about this request.



Dean Maraldo

Chief, Water Enforcement & Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5

3/27/15

Date